

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KELLY NGUYEN,

Plaintiff(s),

v.

STATE OF NEVADA, et al.,

Defendant(s).

2:13-CV-1872 JCM (NJK)

ORDER

Presently before the court is plaintiff Kelly Nguyen's motion for entry of default. (Doc. # 7). Defendants State of Nevada, State of Nevada ex. rel. Nevada Department of Employment, Training and Rehabilitation ("NDETR"), and State of Nevada ex. rel. Employment Security Division ("ESD") have filed a response in opposition. (Doc. # 8). Plaintiff has replied. (Doc. # 9).

On February 27, 2014, the parties filed a stipulation agreeing that the NDETR and the ESD had been properly served. (Doc. # 10). The parties agreed that the stipulation mooted the motion for default as to those defendants. As a result, the only remaining portion of the instant motion that is before the court is the request for default against the State of Nevada.

Nevada has largely waived its sovereign immunity with a handful exceptions, which are governed by NRS 41.031. Relevant here, that statute provides that "[a]n action may be brought under this section against the State of Nevada or any political subdivision of the State. In any action against the State of Nevada, the action must be brought in the name of the State of Nevada on relation of the particular department, commission, board or other agency of the State whose actions

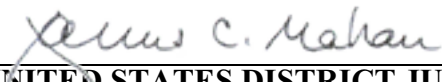
1 are the basis for the suit.” NRS 41.031(2).

2 There is no statutory justification for plaintiff’s argument that the State of Nevada is a proper
3 stand-alone defendant. Plaintiff provides no case law in support of this argument. The court cannot
4 enter default against a party that cannot be sued in the first instance.

5 Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s motion for default
7 (doc. # 7) be, and the same hereby is, DENIED.

8 DATED March 31, 2014.

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11 UNITED STATES DISTRICT JUDGE